

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

<p>IN RE: ETHICON, INC. PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LIGATION</p> <hr/> <p>THIS DOCUMENT RELATES TO ALL CASES</p>	<p>Master File No. 2:12-MD-02327 MDL No. 2327</p> <p>JOSEPH R. GOODWIN U.S. DISTRICT JUDGE</p>
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**PRETRIAL ORDER # 53
AGREED ORDER AND STIPULATION REGARDING THIRD PARTY SUBPOENAS**

Plaintiffs and Defendants Ethicon, Inc. (“Ethicon”) and Johnson & Johnson (“J&J”) (collectively, “Defendants”) have advised the Court that they desire to enter into a stipulation concerning subpoenas requiring the production of documents by third parties. The parties have agreed to this stipulation to resolve Defendants’ Motion for Application of Pretrial Order No. 11 to Third Party Subpoenas. [ECF 563.] The parties stipulate and agree as follows:

1. Plaintiffs have caused subpoenas requiring the production of documents to be issued to third parties Sunoco, Inc., Bodycote Broutman, Inc., Secant Medical, LLC, Galbraith Laboratories and AdvaMed.

2. The parties recognize that documents that may be responsive to the subpoenas may contain confidential and/or proprietary information that is subject to the Stipulated Protective Order entered in this matter (Pretrial Order No. 11).

3. Upon receipt of documents responsive to any subpoena, counsel for Plaintiffs shall transmit one copy of the received documents to counsel for Defendants as soon as practicable. Defendants shall have 30 days from the receipt of the documents to make their confidentiality designations. Once the confidentiality designations are completed, counsel for

Defendants shall transmit to counsel for Plaintiffs a set of the documents with unique bates numbers (but also including the original bates numbers, if any) and the appropriate confidentiality designations in conformance with Pretrial Order No. 11. Those documents specifically designated as confidential by Defendants shall be protected under the provisions of Pretrial Order No. 11.

4. Any documents received pursuant to these or any other subpoenas in this action shall be immediately treated as confidential under Pretrial Order No. 11 and remain so for a period of 30 days from Defendants' receipt of the documents. During that time period, the documents may be used in depositions, but shall not be disseminated beyond counsel for Plaintiffs in this litigation, and their expert witnesses as necessary.

5. After Defendants have made their confidentiality designations, the original documents received by counsel for Plaintiffs (without the confidentiality designations) shall be maintained by lead counsel for Plaintiffs. To the extent that these documents have been loaded into any database or review platform without the confidentiality designations, those designations shall be added to these documents. These original documents shall be destroyed or returned at the conclusion of this litigation.

6. Nothing in this Agreed Order is a waiver of any right of Plaintiffs to challenge any confidentiality designation under the provisions of Pretrial Order No. 11.

7. Furthermore, nothing in this Order is intended to conflict with any other agreement concerning third party subpoenas, except that the requirements of this order will be the minimum requirements for the protection of confidential information.

The Court hereby accepts the stipulation of the parties. It is hereby **ORDERED** that

Motion for Application of Pretrial Order No. 11 to Third Party Subpoenas [ECF 563] is **DENIED** as moot.

The court **DIRECTS** the Clerk to file a copy of this order in 2:12-md-2327 and it shall apply to each member related case previously transferred to, removed to, or filed in this district, which includes counsel in all member cases up to and including civil action number 2:13-cv-13700. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court's website at www.wvsd.uscourts.gov.

ENTER: June 12, 2013



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE

APPROVED:

/s/Bryan F. Aylstock

/s/Tom P. Cartmell

/s/ D. Renee Baggett

ATTORNEYS FOR PLAINTIFFS

s/Christy D. Jones

s/David Thomas

ATTORNEYS FOR ETHICON, INC.
AND JOHNSON & JOHNSON